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05252006

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JUN 08 2006

In re Application of
ALLEE, Daren
Application No. 09/400,508
Filed: September 20, 1999
Attorney Docket No. 2000.000900

DECISION ON PETITION

This is a decision on the petition filed December 3, 2004, requesting that the holding of abandonment in the above-identified application be withdrawn.

The petition to withdraw the holding of abandonment is **DISMISSED**.

A decision by the Board of Patent Appeals and Interferences was mailed on July 29, 2004, setting a two-month period of response. The application became abandoned on September 30, 2004 by operation of law.

Petitioner asserts that he did not receive the decision by the Board of Patent Appeals and Interferences and a search of the file record and docket records indicates that the decision was not received.

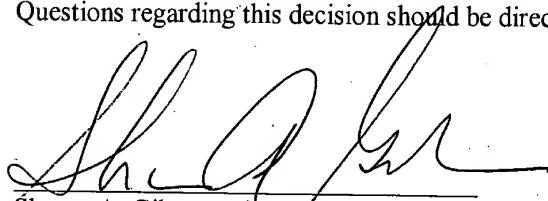
Pursuant to M.P.E.P. §711.03(c), it is the petitioner's burden to demonstrate that the decision by the Board of Patent Appeals and Interferences was not in fact received at the correspondence address of record at the time it was mailed. The showing required to establish the failure to receive an Office action must include a statement from the practitioner stating that the Office action was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received. A copy of the docket record where the non-received Office action would have been received had it been received and docketed must be attached to and referenced in the practitioner's statement. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received" 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. §711.03(c),

Petitioner has not provided the required statement stating that the decision was not received and attesting to the fact that a search of the file jacket and docket records indicates that the decision by the Board of Patent Appeals and Interferences was not received. Further, petitioner has not provided a copy of the docket record where the non-received Office action would have been received had it been received and docketed.

Since applicant has not made the requisite showing required under M.P.E.P §711.03(c), the holding of abandonment is proper.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision.

Questions regarding this decision should be directed to Jose' G. Dees at (571) 272-1569.

A handwritten signature in black ink, appearing to read 'Sharon A. Gibson', is written over a horizontal line.

Sharon A. Gibson, Director
Technology Center 2800
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